MONTANA LEGISLATIVE HISTORY

Chapter 532 19 79

Bill H 783 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	2-19	✓ C	Hearing Date(s)	3-12	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	_____	___ C			

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

CHAPTER NO. 532

HOUSE BILL NO. 783

INTRODUCED BY LORY, RAMIREZ

IN THE HOUSE

February 13, 1979	Introduced and referred to Committee on Judiciary.
February 19, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 14, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1979	Second reading, concurred in.
March 19, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 20, 1979	Returned from second house. Concurred in as amended.
March 21, 1979	On motion consideration passed until the 71st Legislative Day.
March 30, 1979	Second reading, amendments adopted.

March 31, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

House BILL NO. 783

INTRODUCED BY Long, Simpson

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE LIENS FOR PHYSICIANS, NURSES, AND HOSPITALS FOR SERVICES RENDERED; REPEALING SECTIONS 71-3-1101 THROUGH 71-3-1105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Physician, Nurse, and Hospital Lien Act of 1979".

Section 2. Purpose. The purpose of [this act] is to establish lien rights for physicians, nurses, and hospitals when a person receiving medical treatment:

(1) is injured through the fault or neglect of another; or

(2) is insured.

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "Beneficiary" means a person entitled to insurance benefits.

(2) "Insurance" means a contract whereby a person, the insurer, undertakes to indemnify another, the insured, or pay or provide a determinable amount or benefit upon determinable contingencies.

(3) "Person" means an individual, a corporation, an organization, or other legal entity.

Section 4. Liens of physicians, nurses, and hospitals. (1) Whenever a physician, nurse, or hospital renders services to a person injured through the fault or neglect of another, the physician, nurse, or hospital, upon giving the required notice of lien, has a lien for the value of services rendered on:

(a) any claim or cause of action the injured person, his estate, or successors may have for injury, disease, or death;

(b) any judgment the injured person, his estate, or successors may obtain for injury, disease, or death; and

(c) all money paid in satisfaction of such judgment or in settlement of the claim or cause of action.

(2) If a person is an insured or a beneficiary under insurance which provides coverage in the event of injury or disease, a physician, nurse, or hospital, upon giving the required notice of lien, has a lien for the value of services rendered on all proceeds or payments, except payments for property damage, payable by the insurer.

(3) The amount of the lien may not exceed the provisions of the schedule of fees adopted by the Montana state medical association.

(4) The lien is subject to the lien of an attorney provided in 37-61-420.

LC 1217/01

HB 783

INTRODUCED BILL

Section 5. Notice of lien. (1) A physician, nurse, or hospital claiming a lien shall serve written notice upon the person and upon his insurer, if any, against whom liability for injury, disease, or death is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

(2) A physician, nurse, or hospital claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

Section 6. Notice of lien -- filing with clerk of court. If an action is commenced for recovery for injury, disease, or death, a copy of the notice of lien may be filed in the office of the clerk of court in which the action is pending, and the filing is notice to all parties to the action.

Section 7. Liability for failure to recognize lien. If any insurer or person, after receiving notice of lien, makes payment on account of injury, disease, or death and the amount of the lien claimed by any physician, nurse, or hospital has not been paid, the insurer or person is liable to the physician, nurse, or hospital for the reasonable value of the services.

Section 8. When law not applicable. [This act] does not apply to any injury, disease, or death for which compensation is awarded pursuant to the Workers' Compensation Act or the Occupational Disease Act of Montana.

Section 9. Repealer. Sections 71-3-1101 through 71-3-1105, MCA, are repealed.

-End-

__ Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 760	revise fee for housing federal & state prisoners in county jails	2/13	Meyer	2/19	pass	2/19
HB 774	define marital status - laws governing illegal discrimination & exclude cohabitation	2/13	Seifert	2/19	pass	2/19
HB 775	allow attorneys fees to a person - discriminatory practice if complaint dismissed	2/13	Seifert	2/19	pass	2/19
HB 777	give injured by intoxicated person - cause of action against - unlawfully furnished	2/13	Huennekens	2/19	do not pass	2/19
HB 782	require annual registration of snowmobiles - etc.	2/13	Menahan	2/19	pass	2/19
HB 783	provide liens for physicians, etc. for services rendered	2/13	Lory	2/19	pass	2/19

HOUSE BILL NO. 783: Representative Lory. This could be a no-fault bill for hospitals. It does not help a person with no-fault from out of state. The purpose of this bill is to establish lien rights for physicians, nurses, and hospitals when a person receiving medical treatment is injured through the fault or neglect of another or is insured.

DON McDONALD: Most existing lien law was added in 1932. It would not take into account no-fault for self insurance. What we are trying to do is use an existing resource and it would result in lower costs to the state.

DENNIS RYAN: Patient accounts, St. Patricks Hospital. I have been in this field about 19 years and it is unfortunate that we see the abuses that we do. It is still our goal in the medical industry and this is one way that we can exert some idea of getting these costs paid. He gave examples of types of abuses.

BILL WAGNER: Very briefly, the present law has not been changed. We are not placing a tremendous burden upon insurance companies.

REPRESENTATIVE KEYSER: You put the same words right back in. Do you think the present law is ambiguous. Discussion about this and the new section.

REPRESENTATIVE EUDAILY: Talked about the two party checks for Blue Cross and he felt that it should be changed. Mr. McDonald answered that the only time this would apply there would be no notice of lien with the insurance company. Then Mr. Eudaily commented, in other words they would not be filed immediately if you left the hospital. This was agreed.

MR. McDONALD: About section 4(2) under the existing lien law is one and there is another against a third party. The hospital will have a new right to file a lien. This in answer to a question from Mr. Scully, what is new in the bill. The comment was made that the lien could apply right now when you are injured through someone elses fault or neglect.

There was no further discussion and the hearing closed on House Bill No. 783.

HOUSE BILL NO. 774: Representative Seifert. This bill would define marital status as used in the laws governing illegal discrimination and to exclude cohabitation from the definition of marital status. He went through the bill and explained the definitions.

HOUSE BILL NO. 760: Representative Scully said that he had received information that the bill would cost the Highway Patrol approxiamtely $150,000.

Representative Roth moved "do not pass". Representative Keyser offered a substitute motion of "do pass". Representative Scully suggested that if this bill does pass it would have to be sent to the Appropriations Committee. The motion carried with the vote 18 to 1.

HOUSE BILL NO. 774: Representative Day moved "do not pass". Representative Holmes moved to amend on page 3, line 19, and change "marital status" to "marriage". The motion carried with the vote unanimous.

Representative Seifert moved a substitute motion "do pass". The motion carried.

HOUSE BILL NO. 775: Representative Keedy moved to amend. The motion carried with the vote unanimous. He will do so from the floor. Representative Keyser moved "do pass". The motion carried with Representative Kemmis voting "no".

HOUSE BILL NO. 777: Representative Keyser moved "do not pass". The motion carried with Representatives Keedy, Uhde, and Holmes voting "no".

HOUSE BILL NO.782: Representative Lory moved "do pass". Representative Day moved to amend, to carry the registration within the snowmobile at all times. Representative Keyser spoke in favor of the motion. Representative Conroy opposed the motion and Representative Roth asked for clarification. After a great deal of discussion Representative Day withdrew the motion.

Representative Keyser moved to amend to put a decal on both sides of the cowl. Representative Conroy opposed the motion. There was discussion. Representative Holmes moved to amend on page 8, line 21, "on either side of the cowling". The motion failed.

The motion "do pass" carried with Representative Keedy voting "no".

HOUSE BILL NO. 783: Representative Lory moved "do pass". The motion failed on a roll call vote. The motion "do not pass" carried by reversing the vote. After some discussion Representative Eudaily moved to reconsider the action on this bill. The motion carried with the vote unanimous.

Representative Lory moved "do pass". He explained a section of the bill that seemed to be causing confusion. The motion carried with the vote unanimous.

HOUSE BILL NO. 401: Representative Holmes moved "do pass", and the motion carried with the vote unanimous.

There was no further action to be taken on bills at this time and the meeting adjourned at 11:25 a.m.

John P. Scully, Chairman

Mary Ellen Connelly, Secretary

Forty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

	BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
177.	HB-638	2/23/79	3/7/79	—						Tabled 3/12/79
178.	HB-652	2/23/79	3/8/79	3/9/79						
179	HB-701	2/23/79	3/14/79	3/13/79					3/14/79	
180.	HB-713	2/23/79	3/[illegible]/79	3/13/79					3/14/79	
181.	HB-749	2/23/79	3/12/79	3/14/79					3/14/79	
182	HB-774	2/23/79	3/13/79	3/21/79	[illegible]	[illegible]	[illegible]	Log-out	3/17/79	3/20/79
183	HB-795	2/23/79	3/13/79	—						Tabled 3/13/79
*184	HB-783	2/23/79	3/13/79	3/13/79					3/13/79	
185	HB-797	2/23/79	3/13/79	3/14/79					3/13/79	
186	HB-803	2/23/79	3/14/79	3/21/79					3/20/79	
187	HB-805	2/23/79	3/14/79	3/14/79				3/14/79		
188	HB-821	2/23/79	3/14/79	3/14/79				3/14/79		
189	HB-833	2/23/79	~~3/14/79~~ C	3/16/79	Do not pass out				3/17/79	
190	HB-836	2/23/79	3/9/79	3/12/79					3/12/79	
191	HB 840	2/23/79	3/15/79	3/15/79				3/15/79		
192	HB 747	2/23/79	3/12/79	Tabled 3/13/79						

Use a separate sheet for Senate, House Bills, and Resolutions.

Senator Lensink said that it was almost implied that a suit is filed simply on a complaint of a party. Mr. Smith stated that yes, that is all it takes. If they accept it, they will use the power of their staff to prosecute it.

Senator Lensink asked if a number of complaints do not come in that they don't accept. Mr. Smith said he would assume they tend to regulate the merits of what is accepted, but once they accept one, then they accept the responsibility for prosecuting for that case. He said they were defending three without validity. He also stated that one case has been pending for five years - he apparently lost interest and was plagued with loss of funds and loss of desire.

CONSIDERATION OF HOUSE BILL 797:

This is an act to clarify who is permitted access to youth court records and related documents, etc. Representative Uhde stated that this bill allows records to be made available to certain people.

Glen Hufstetler, chief probation officer in Kalispell, stated that they support this bill because they feel that the information found in those juvenile records is of benefit to courts and the community at large. He stated that thousands of dollars are spend on evaluation and currently the law does not allow certain individuals to gain access to those records. He stated that after they have been sealed for ten years, then they are destroyed and he said that in most areas, the court is allowing parole officers the opportunity to see those records, but there are a few around the state who will not allow this.

There were no further proponents and no opponents.

Senator Van Valkenburg questioned if this still allows the judge some discretion on opening their files. Mr. Hufstetler stated that it does, that the court order is not automatic..

There were no further questions or comments and the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 783:

This is an act to provide liens for physicians, nurses, and hospitals for services rendered, etc. Representative

Lory stated this was to address a problem that is the result of modern technology.

Dan MacDonald, representing St. Peters Hospital, gave an example of an individual who moved to Kalispell, owing $22,000.00 and the hospital realized nothing.

Dennis Ryan, representing St. Peters Hospital, gave a statement in support of this bill.

Bill Wagner, representing St. Patricks Hospital, gave a statment in support.

Chad Smith, representing the Montana Hospital Association, stated that he has had experience working with the present lien laws over the years and said there are some problems. He said that the companies doing business in the state of Montana have been very cooperative and he said that there are a number of companies that do not do business in Montana and that is where the problem basically lies. He stated that this is an improvement of the law and he would endorse it.

There were no further proponents and no opponents.

Senator Anderson questioned if this goes on life insurance benefits. Mr. Smith answered no, just on casualty. Senator Turnage said that a major change was disease and he said that was a substantial change and did they see any problems with health insurance benefits and he wondered what kind of problems are we raising by slipping disease in. He said that the old statute simply stated injury.

Senator Galt wondered how this is going to affect the insurance involved where a policy pays $50.00 a day and call it compensation and he wondered if they were getting into that too. It was answered that they wanted to make this as broad as possible and as it stands, it states "which provides coverage as result of disease." He said that if they are getting $50.00 to $100.00 a day, the way he reads it, they will be able to claim it.

Senator Lensink questioned if they interpret this as proceeds for diability insurance and he stated that

disability starts a week or two weeks after the person is disabled and if they are in the hospital for two months, can they file a lien on diability insurance.

Representative Lory stated that as a practical matter, they did not think they would and that their purpose was to gather as much resources as they could under medical payments. He suggested that perhaps there should be a specific disclaimer dealing with disability.

Senator Anderson said that in terms of exemptions under federal law, pension plans are not to be used, and a lot of people are putting money into annuities and buying investments and he wondered if these should be included.

There were no further questions or comments, and the hearing on this bill was closed.

DISPOSITION OF HOUSE BILL 783:

Senator Towe moved that this bill be amended by inserting, "This act does not apply to any benefits payable under a policy of life insurance or group life insurance, a contract of disability insurance, or an annuity contract or to pension benefits payable under a qualified pension plan." The motion carried unanimously.

Senator Towe moved that the bill do pass as amended.

Senator Turnage made a substitute motion that on page 2, lines 21 through 23, strike subsection 3 in its entirety. The motion carried unanimously.

Senator Turnage moved that the bill be concurred in, as amended. The motion carried unanimously.

RECONSIDERATION OF HOUSE BILL 774:

Joan Mayer from the Legislative Council stated that because it is a definition it also applies to the other sections of law, in such things as financing, contracts, education, etc.

Senator Olson questioned how can cohabitation be considered under marital law. Senator Lensink said that

Date 2/15/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)			✓
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

SENATE

HB 783

1. Page 2, lines 21 through 23.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection

2. Page 4, line 1.
Following: "applicable."
Insert: "(1)"

3. Page 4.
Following: line 4
Insert: "(2) [This act] does not apply to any benefits payable under a policy of life insurance or group life insurance, a contract of disability insurance, or an annuity contract or to pension benefits payable under a qualified pension plan."

March 13 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 783

Lory (Anderson)

Respectfully report as follows: That House Bill No. 783,

third reading bill, be amended as follows:

1. Page 2, lines 21 through 23.
Strike: subsection (3) in its entirety
Renumber: subsequent subsection

2. Page 4, line 1.
Following: "applicable."
Insert: "(1)"

3. Page 4.
Following: line 4
Insert: "(2)" [This act] does not apply to any benefits payable under a policy of life insurance or group life insurance, a contract of disability insurance, or an annuity contract or to pension benefits payable under a qualified pension plan."

And, as so amended,
BE CONCURRED IN

REREASX

Everett R. Lensink, Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 783

INTRODUCED BY LORY, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE LIENS FOR PHYSICIANS, NURSES, AND HOSPITALS FOR SERVICES RENDERED; REPEALING SECTIONS 71-3-1101 THROUGH 71-3-1105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Physician, Nurse, and Hospital Lien Act of 1979".

Section 2. Purpose. The purpose of [this act] is to establish lien rights for physicians, nurses, and hospitals when a person receiving medical treatment:

(1) is injured through the fault or neglect of another; or

(2) is insured.

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "Beneficiary" means a person entitled to insurance benefits.

(2) "Insurance" means a contract whereby a person, the insurer, undertakes to indemnify another, the insured, or pay or provide a determinable amount or benefit upon determinable contingencies.

(3) "Person" means an individual, a corporation, an organization, or other legal entity.

Section 4. Liens of physicians, nurses, and hospitals. (1) Whenever a physician, nurse, or hospital renders services to a person injured through the fault or neglect of another, the physician, nurse, or hospital, upon giving the required notice of lien, has a lien for the value of services rendered on:

(a) any claim or cause of action the injured person, his estate, or successors may have for injury, disease, or death;

(b) any judgment the injured person, his estate, or successors may obtain for injury, disease, or death; and

(c) all money paid in satisfaction of such judgment or in settlement of the claim or cause of action.

(2) If a person is an insured or a beneficiary under insurance which provides coverage in the event of injury or disease, a physician, nurse, or hospital, upon giving the required notice of lien, has a lien for the value of services rendered on all proceeds or payments, except payments for property damage, payable by the insurer.

~~(3) The amount of the lien may not exceed the provisions of the schedule of fees adopted by the Montana state medical association.~~

~~(4)~~(3) The lien is subject to the lien of an attorney provided in 37-61-420.

REFERENCE BILL

Section 5. Notice of lien. (1) A physician, nurse, or hospital claiming a lien shall serve written notice upon the person and upon his insurer, if any, against whom liability for injury, disease, or death is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

(2) A physician, nurse, or hospital claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

Section 6. Notice of lien -- filing with clerk of court. If an action is commenced for recovery for injury, disease, or death, a copy of the notice of lien may be filed in the office of the clerk of court in which the action is pending, and the filing is notice to all parties to the action.

Section 7. Liability for failure to recognize lien. If any insurer or person, after receiving notice of lien, makes payment on account of injury, disease, or death and the amount of the lien claimed by any physician, nurse, or hospital has not been paid, the insurer or person is liable to the physician, nurse, or hospital for the reasonable value of the services.

Section 8. When law not applicable. [(1)] [This act] does not apply to any injury, disease, or death for which compensation is awarded pursuant to the Workers' Compensation Act or the Occupational Disease Act of Montana.

[(2) [THIS ACT] DOES NOT APPLY TO ANY BENEFITS PAYABLE UNDER A POLICY OF LIFE INSURANCE OR GROUP LIFE INSURANCE, A CONTRACT OF DISABILITY INSURANCE, OR AN ANNUITY CONTRACT OR TO PENSION BENEFITS PAYABLE UNDER A QUALIFIED PENSION PLAN.]

Section 9. Repealer. Sections 71-3-1101 through 71-3-1105, MCA, are repealed.

-End-